

1 \_\_\_\_\_ BILL NO. \_\_\_\_\_

2 INTRODUCED BY \_\_\_\_\_  
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING THE DEPARTMENT OF JUSTICE TO CONDUCT A  
5 RANDOM SAMPLE OF MOTOR VEHICLE REGISTRATIONS TO VERIFY COMPLIANCE WITH MANDATORY  
6 MOTOR VEHICLE LIABILITY INSURANCE; ALLOWING AN INSURANCE COMPANY TO RELEASE  
7 INFORMATION TO THE DEPARTMENT OF JUSTICE; AND AMENDING SECTION 33-19-306, MCA."

8

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10

11 NEW SECTION. **Section 1. Verification of liability insurance policy.** (1) The department may select  
12 random samples of registered owners of motor vehicles for the purpose of verifying whether the owners  
13 are in compliance with the provisions of 61-6-301.

14 (2) In addition to general random samples of motor vehicle registrations, the department may  
15 select for verification other random samples, including but not limited to registrations of motor vehicles  
16 owned by persons:

17 (a) who during the preceding 4 years were convicted of violating 61-6-301 or 61-6-302;

18 (b) whose driving privileges were suspended during the preceding 4 years; or

19 (c) who during the preceding 4 years acquired ownership of a motor vehicle while the registration  
20 of the motor vehicle under the previous owner was surrendered pursuant to 61-6-304.

21 (3) The department may send to owners of randomly selected motor vehicles requests for  
22 verification of motor vehicle liability insurance coverage. An owner of a selected motor vehicle is required  
23 to state whether the motor vehicle was insured on the verification date stated in the department's request.  
24 The department may require the owner to provide the names and addresses of insurers, policy numbers,  
25 and expiration dates of insurance coverage.

26 (4) Within 30 days after receiving a request for verification, the owner to whom it is sent shall  
27 furnish the requested information to the department on a form prescribed by the department. Proof of  
28 insurance in effect on the verification date, as prescribed by the department, may be considered by the  
29 department to be a satisfactory response to the request for verification.

30 (5) If the owner responds to the request for information by asserting that the owner's car was

covered by a liability insurance policy on the verification date stated in the department's request, the department may conduct a verification of the response by furnishing necessary information to the insurer named in the response. The insurer shall within 30 days inform the department whether the motor vehicle was insured by the insurer in accordance with 61-6-301 on the verification date stated.

(6) If an owner's response indicates that the owner's motor vehicle was not covered by a liability insurance policy in accordance with 61-6-301 or if an owner fails to respond to the request for verification, the department shall notify the county attorney and the county sheriff of the county in which the owner resides.

(7) A random sample selected under this section may not be categorized on the basis of race, color, religion, sex, national origin, ancestry, age, marital status, physical or mental disability, economic status, or geography.

**Section 2.** Section 33-19-306, MCA, is amended to read:

**"33-19-306. Disclosure limitations and conditions.** (1) Except as provided in this section, an insurance institution, insurance producer, or insurance-support organization may not disclose any personal or privileged information about an individual collected or received in connection with an insurance transaction.

(2) Disclosure may be made with the written authorization of the individual but:

(a) if the authorization is submitted by another insurance institution, insurance producer, or insurance-support organization, the authorization must meet the requirements of 33-19-204; or

(b) if the authorization is submitted by a person other than an insurance institution, insurance producer, or insurance-support organization, the authorization must be:

(i) dated;

(ii) signed by the individual;

(iii) sufficient to identify the nature of the information to be disclosed and the person to whom the information is to be disclosed; and

(iv) obtained 1 year or less prior to the date a disclosure is sought pursuant to this subsection.

(3) Disclosure may be made to a person other than an insurance institution, insurance producer, or insurance-support organization, provided that the disclosure is limited to that which is reasonably necessary:

1 (a) to enable the person to perform an insurance function for the disclosing insurance institution,  
2 insurance producer, or insurance-support organization and the person agrees not to further disclose the  
3 information without the individual's separate, written authorization; or

4 (b) to enable the person that has agreed not to further disclose the information without the  
5 individual's separate, written authorization to provide information to the disclosing insurance institution,  
6 insurance producer, or insurance-support organization for the purpose of:

7 (i) determining an individual's eligibility for an insurance benefit or payment; or

8 (ii) detecting or preventing criminal activity, fraud, material misrepresentation, or material  
9 nondisclosure in connection with an insurance transaction.

10 (4) Disclosure may be made to an insurance institution, insurance producer, insurance-support  
11 organization, or self-insurer that has agreed not to further disclose the information without the individual's  
12 separate, written authorization if the information disclosed is limited to that which is reasonably necessary:

13 (a) to detect or prevent criminal activity, fraud, material misrepresentation, or material  
14 nondisclosure in connection with insurance transactions; or

15 (b) for either the disclosing or receiving insurance institution, insurance producer, or  
16 insurance-support organization to perform its insurance function in connection with an insurance  
17 transaction involving the individual.

18 (5) Disclosure may be made to a medical care institution or medical professional of that  
19 information reasonably necessary for the following purposes:

20 (a) verifying insurance coverage or benefits;

21 (b) informing an individual of a medical problem of which the individual may not be aware; or

22 (c) conducting an operations or services audit.

23 (6) Disclosure may be made to an insurance regulatory authority that agrees not to further disclose  
24 the information without the individual's separate, written authorization.

25 (7) Disclosure may be made to a law enforcement or other government authority:

26 (a) to protect the interests of the insurance institution, insurance producer, or insurance-support  
27 organization in preventing or prosecuting the perpetration of fraud upon it; ~~or~~

28 (b) if the insurance institution, insurance producer, or insurance-support organization reasonably  
29 believes that illegal activities have been conducted by the individual; or

30 (c) to verify the existence of liability insurance coverage on motor vehicles as provided in [section

1 1(5)], if requested by the department of justice.

2 (8) Disclosure that is limited to that which is reasonably necessary may be made as otherwise  
3 permitted or required by law.

4 (9) Disclosure that is limited to that which is reasonably necessary may be made in response to  
5 a facially valid administrative or judicial order, including a search warrant or subpoena.

6 (10) (a) Except as provided in subsection (10)(b), disclosure that is limited to that which is  
7 reasonably necessary may be made for the purpose of conducting actuarial or research studies, provided  
8 that:

9 (i) no individual is identified in any actuarial or research report;

10 (ii) materials allowing the individual to be identified are returned or destroyed as soon as they are  
11 no longer needed; and

12 (iii) the actuarial or research organization agrees not to further disclose the information without the  
13 individual's separate, written authorization.

14 (b) Disclosure of information may be made for:

15 (i) health research that is subject to the approval of an institutional review board and the  
16 requirements of federal law and regulations governing biomedical research; or

17 (ii) epidemiological or drug therapy outcomes research that requires information that has been made  
18 anonymous to protect the identity of the patient through coding or encryption.

19 (11) Disclosure may be made to a party or a representative of a party to a proposed or  
20 consummated sale, transfer, merger, or consolidation of all or part of the business of the insurance  
21 institution, insurance producer, or insurance-support organization, if:

22 (a) prior to the consummation of the sale, transfer, merger, or consolidation only information is  
23 disclosed that is reasonably necessary to enable the recipient to make business decisions about the  
24 purchase, transfer, merger, or consolidation; and

25 (b) the recipient agrees not to further disclose the information without the individual's separate,  
26 written authorization.

27 (12) (a) Disclosure that is limited to that which is reasonably necessary may be made to any  
28 affiliate whose only use of the information will be in connection with an audit of the insurance institution  
29 or insurance producer if the affiliate agrees not to disclose the information for any other purpose or to  
30 unaffiliated persons.

(b) Disclosure of personal information that is limited to an individual's name, age, sex, family composition, address, telephone number, occupation, and avocations may be made to any affiliate whose only use of the information is in connection with the marketing of insurance or financial products if the affiliate agrees not to disclose the information for any other purpose or to unaffiliated persons.

(13) Except for medical record information, disclosure may be made by a consumer reporting agency to a person other than an insurance institution or insurance producer.

(14) Disclosure may be made to a group policyholder for the purpose of reporting claims experience or conducting an audit of the insurance institution's or insurance producer's operations or services if the information disclosed is reasonably necessary for the group policyholder to conduct the review or audit and the group policyholder agrees not to further disclose the information without the individual's separate, written authorization.

(15) Disclosure that is limited to that which is reasonably necessary may be made to a professional peer review organization for the purpose of reviewing the service or conduct of a medical care institution or medical professional if the professional peer review organization agrees not to further disclose the information without the individual's separate, written authorization.

(16) Disclosure that is limited to that which is reasonably necessary may be made to a governmental authority as required by federal or state law or for the purpose of determining the individual's eligibility for health benefits for which the governmental authority may be liable.

(17) Disclosure that is limited to that which is reasonably necessary may be made to a certificate holder or policyholder for the purpose of providing information regarding the status of an insurance transaction.

(18) The commissioner may, after notice and hearing, adopt rules to carry out the provisions of this section. The rules may not define the recordkeeping requirements regarding authorized disclosures of personal or privileged information pursuant to subsections (2) through (17) but may define the requirements of any agreement obtained by an insurance institution, insurance producer, or insurance-support organization regarding disclosures of personal or privileged information."

NEW SECTION. **Section 3. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 61, chapter 6, part 3, and the provisions of Title 61, chapter 6, part 3, apply to [section 1].

- END -